

## HUMAN SERVICES BOARD

In re ) Fair Hearing No. V-04/09-226  
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 Appeal of )

The petitioner's mother appeals the Office of Vermont Health Access (OVHA) policy requiring the use of a mail order service for one of the medications used by petitioner. The issue is whether the petitioner is required to obtain the particular medication through a mail order service rather than through a local pharmacy.

1. The petitioner is diagnosed with cystic fibrosis and receives Dr. Dynasaur. D.W. is petitioner's mother.

2. One of petitioner's medications is Pulmozyme Solution. Petitioner takes this medication daily and has been doing so for three years. The medication helps clear the petitioner's lungs.

3. Approximately two months ago, D.W. received a letter from OVHA informing her that there was a new requirement that petitioner receive her Pulmozyme Solution through ICORE, a mail order service located in Florida. She

has been informed to call ICORE monthly to set up delivery dates.

4. D.W. explained that she contacted ICORE to set up the first delivery day. The medication did not arrive on the scheduled delivery day. D.W. called ICORE and spoke to the ICORE's director after placing several calls. D.W. learned that the ICORE employee she spoke to in order to set up the delivery day did not pass along the delivery information in a timely way.

5. D.W. testified that petitioner did not have the Pulmozyme Solution for four to five days.<sup>1</sup> D.W. is seeking permission to use a local pharmacy to ensure that petitioner does not experience any medication gaps.

ORDER

OVHA's decision is affirmed.

REASONS

The Vermont Legislature enacted legislation directing OVHA to establish a Pharmacy Best Practices and Cost Control program. 33 V.S.A. § 1998. To control costs, the Legislature enacted 33 V.S.A. § 1998a which states:

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<sup>1</sup>As of the hearing, petitioner had her medication and D.W. planned to set up the next delivery date with ICORE.

The pharmacy best practices and cost control program shall require consumers to purchase prescription drugs using mail order for selected pharmacy products. (emphasis added).

OVHA recently added Pulmozyme Solution to the list of medications covered by mail order services.

D.W. disagrees with the policy mandating the use of the ICORE mail order system. Her disagreement stems, in part, from her experience with the program when her daughter was left without a needed medication for several days. Her disagreement stems, in part, from not being able to use a local pharmacist for all of the petitioner's medications since such use is better for coordination of the petitioner's medical needs.<sup>2</sup>

However, the Legislature has given OVHA the authority to mandate the use of mail order pharmacies as a cost savings and given OVHA the authority to place medications on this list. The issue is a policy issue best addressed by the Legislature.

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<sup>2</sup> D.W. also objects to the environmental costs based on the materials used for shipping the medications directly to her.

Fair Hearing Rule No. 1000.4D states:

The Board will not reverse or modify a decision that is found to be in conformance with the applicable law and policy even though the Board might disagree with the results effected by that policy.

Because OVHA's decision comports with the applicable law, OVHA's decision to include Pulmozyme Solution on the list of medications required to be purchased through mail order is affirmed. 3 V.S.A. § 3091(d).

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